

HOUSE No. 4821

The Commonwealth of Massachusetts

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on Senate, No. 47 and House, No. 181, a Bill relative to the licensure of applied behavior analysts (House, No. 4821). June 28, 2010.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Theodore C. Speliotis	13th Essex

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

An Act RELATIVE TO THE LICENSURE OF APPLIED BEHAVIOR ANALYSTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 13 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following sections:-

Section 76A. There shall be within the board of registration of psychologists a committee on registration of behavior analysts, hereinafter called the committee, consisting of seven members appointed by the governor for terms of three years. One member shall be a licensed psychologist who is a member of the board, one member shall be a licensed psychologist who has been actively involved with the practice of applied behavior analysis for at least five years, one member shall be from the general public and shall not be engaged in or have a financial interest in the delivery of psychological services or applied behavior analysis, three members shall be licensed behavior analysts, and one shall be a licensed assistant behavior analyst.

Section 77A. The governor shall appoint four of the initial members to terms of three years, and three of the initial members to terms of two years. Thereafter, all appointees shall serve for terms of three years. Each member of said board shall hold office until his successor has been qualified. A vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member shall serve more than two consecutive full terms. A member appointed for less than a full term may serve 2 full terms in addition to such part of a full term. The board shall fill vacancies with persons who possess the qualification required of the original appointees. Those members appointed to the initial committee as behavior analysts and as assistant behavior analysts need not be licensed as such, but must meet the criteria for licensure in section ??? . Such members so appointed after the initial committee is appointed shall be licensed under these provisions as licensed behavior analysts or licensed assistant behavior analysts, prior to such appointment.

23 Section 78A. The governor shall have the power to remove from office any member of the
24 committee for cause; but no committee member may be so removed without being informed in
25 writing at least thirty days in advance of the reasons for his removal and of his right to a public
26 or private hearing with counsel.

27 Section 79A. The board shall at its first meeting and, annually thereafter, organize by electing
28 from among its members, by majority vote, a chairman, a vice-chairman, and a secretary. Such
29 officers shall serve until their successors are elected and qualified. The board shall hold at least
30 two meetings each year, but additional meetings may be held upon the call of the chairman, or
31 the secretary, or at the written request of any three members of the board. Four members of the
32 board shall constitute a quorum. The members of the board shall serve without compensation
33 but each member shall be reimbursed for actual expenses reasonably incurred in the performance
34 of his/her duties as a member on behalf of the board. The board shall be empowered to hire such
35 assistants as it may deem necessary to carry on its activities.

36 SECTION 2. Chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is
37 hereby amended in section 130 by inserting the following new definition:

38 “Applied Behavior Analysis”, the design, implementation and evaluation of instructional and
39 environmental modifications, using behavioral stimuli and consequences to produce socially
40 significant improvements in human behavior through skill acquisition and the reduction of
41 problematic behavior. An applied behavior analysis program should be based on empirical
42 research, including the use of direct observation, measurement and functional analysis of the
43 relationship between environment and behavior. Applied behavior analysis programs utilize
44 antecedent stimuli, positive reinforcement and other consequences to produce behavior change,
45 but does not include cognitive therapies, psychological testing, neuropsychology, psychotherapy,
46 psychoanalysis, hypnotherapy, sex therapy or both short and long-term counseling as treatment
47 modalities.

48 SECTION 3. Chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is
49 hereby amended in section 118 by inserting after the definition of “Board” the following new
50 definitions:

51 “Assistant Behavior Analyst”, an individual who is trained in applied behavior analysis and who
52 by training and experience meets the requirements of section 129G and is duly licensed as
53 defined in section 129J to practice applied behavior analysis as an assistant under the supervision
54 of a licensed behavior analyst.

55 “Behavior Analyst”, an individual who is trained in applied behavior analysis and who by
56 training and experience meets the requirements of section 129E and is duly licensed as defined in
57 section 129I to practice behavior analysis in the commonwealth.

“Certifying entity”, the nationally accredited Behavior Analyst Certification Board, or other equivalent nationally accredited nongovernmental agency approved by the board which certifies individuals who have completed academic, examination, training, and supervision requirements in applied behavior analysis.

SECTION 4. Chapter 112 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following new sections:

Section 129C. The committee on registration of behavior analysts may adopt reasonable rules to carry out sections 129D to 129K, inclusive, and may amend and revoke such rules at its discretion. The committee shall keep a record of its proceedings and a register of all persons licensed by it. The register shall contain the name of every living licensee, his address, and the date and number of his license as a licensed behavior analyst or licensed assistant behavior analyst. The committee shall develop criteria for the licensure of licensed behavior analysts or licensed assistant behavior analysts, including both academic qualifications and supervised experience. Rules created by the committee shall be subject to approval by the board of registration of psychologists.

Section 129D. A person who desires to be licensed as a licensed behavior analyst shall apply to the committee in the manner prescribed by the committee. The applicant shall include statements under oath satisfactory to the committee, showing that he possesses the qualifications preliminary to examination required by section 129E. He shall pay to the committee at the time of his filing such application a fee which shall be determined annually by the secretary of administration and finance under the provisions of section three B of chapter seven.

Section 129E. To be eligible for licensure by the committee as a licensed behavior analyst, an applicant shall make application to the committee upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

(a) is at least eighteen years of age;

(b) is of good moral character;

(c) has a master’s degree or higher degree from a regionally or nationally accredited college or university;

(d) has received his degree from within the department of psychology at the university, or other department designed specifically to train behavior analysts through the study of applied behavior analysis;

(e) has completed a course sequence approved by a certifying entity within the department of psychology or special education at the college or university, or a field of social science or education approved by the committee.

(f) has completed a minimum of 1500 hours of supervised experience in the practice of applied behavior analysis over a period of not less than one calendar year, of which not less than 75 hours is spent in direct 1:1 contact with the supervisor, and which is acceptable to the committee on registration of behavior analysts;

(g) has been certified as a board certified behavior analyst by a certifying entity, as defined in section 118 of Chapter 112 of the General Laws, as appearing in the 2008 Official Edition.

(h) has passed an examination in applied behavior analysis the form and content of which is determined by the board of registration of psychologists.

(i) has passed a state jurisprudence examination.

(j) conducts his professional activities in accordance with accepted standards including the Ethical Standards of Psychologists of the American Psychological Association and the Guidelines for Responsible Conduct of the Behavior Analyst Certification Board.

Section 129F. A person who desires to be licensed as an assistant behavior analyst shall apply to the committee in the manner prescribed by the committee. The applicant shall include statements under oath satisfactory to the committee, showing that he possesses the qualifications preliminary to examination required by section 129G. He shall pay to the committee at the time of his filing such application a fee which shall be determined annually by the secretary of administration and finance under the provisions of section three B of chapter seven.

Section 129G. To be eligible for licensure by the committee as an assistant behavior analyst, an applicant shall make application to the committee upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that such person:

(a) is at least eighteen years of age;

(b) is of good moral character;

(c) has a bachelor's degree or higher degree from a regionally or nationally accredited college or university;

(d) has completed a course sequence approved by a certifying entity within the department of psychology or special education at the college or university, or a field of social science or education approved by the board.

(e) has completed a minimum of 1000 hours of supervised experience in the practice of applied behavior analysis over a period of not less than one calendar year, of which not less than 50 hours is spent in direct 1:1 contact with the supervisor, and which is acceptable to the committee on registration of behavior analysts;

(f) has been certified as a board certified assistant behavior analyst by a certifying entity, as defined in section 118 of Chapter 112 of the General Laws, as appearing in the 2008 Official Edition.

(g) has passed an examination in applied behavior analysis the form and content of which determined by the board of registration of psychologists.

(h) conducts his professional activities in accordance with accepted standards including the Ethical Standards of Psychologists of the American Psychological Association and the Guidelines for Responsible Conduct of the Behavior Analyst Certification Board.

Section 129H. The committee shall examine applicants for licensure as a licensed behavior analyst and assistant behavior analyst at least annually in such places as it may determine commencing in calendar year two thousand and eleven. The examination may be written and/or oral and shall test the applicant's competency in and knowledge of the theory and practice of behavioral psychology, applied behavior analysis, behavioral measurement, functional analysis, reinforcement theory, single subject design, and theory underlying behavioral treatment methodology. Additionally, applicants will be examined for knowledge of ethics and relevant Massachusetts law. The committee shall determine the type of examination. Substitution of this requirement with certification by the Behavior Analyst Certification Board may be permitted as described in section 129E and section 129G. Any applicant who fails to pass such examination may take a second examination upon the payment of an additional application fee that shall be determined annually by the commissioner of administration and finance under the provisions of section 3B of chapter 7, and must be so re-examined at the next scheduled examination. Upon failure of an applicant to pass a second examination, the committee may require him to complete additional courses of study as designated by the committee, in which case he shall be required, before taking another examination, to present to the committee satisfactory evidence of having completed the required additional courses, and shall pay the re-examination fee as noted above.

Section 129I. The committee shall license as a behavior analyst each applicant who proves to the satisfaction of the committee his fitness for licensure under the provisions of sections 129D to 129E, inclusive. It shall issue to each person so licensed, a license, which shall be prima facie evidence of the right of such person to represent himself as a behavior analyst and authorized to use the title, "behavior analyst".

Section 129J. The committee shall license as an assistant behavior analyst each applicant who proves to the satisfaction of the committee his fitness for licensure under the provisions of

sections 129D to 129E, inclusive. It shall issue to each person so licensed, a license, which shall be prima facie evidence of the right of such person to represent himself as an assistant behavior analyst and authorized to use the title, "assistant behavior analyst".

Section 129K. The director of professional licensure shall determine the renewal cycle and renewal period for all licenses issued by the committee. Persons licensed in accordance with these sections shall apply to the committee for renewal of their licenses on or before the expiration date, as determined by the director, unless such license was earlier revoked, suspended or canceled as a result of a disciplinary proceeding instituted pursuant to this chapter. Applications for renewal shall be made on forms approved by the committee and accompanied by payment of a renewal fee, as determined by the secretary of administration and finance pursuant to section 3B of chapter 7. All licensing and application fees and civil administrative penalties collected pursuant to sections 129D and 129F, shall be deposited into the trust fund established in section 35V of chapter 10.

Section 129J. The committee may, after a hearing pursuant to chapter thirty A, revoke, suspend, or cancel the license of a licensed behavior analyst, or reprimand or censure a licensed behavior specialist if it finds upon proof satisfactory to the committee that such licensed behavior specialist:

(a) fraudulently procured licensure as a licensed behavior analyst;

(b) violated any provision of law relating to practice as a licensed behavior analyst, or any rule or regulation adopted hereunder;

(c) acted with gross misconduct in practicing as a licensed behavior analyst or of practicing fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;

(d) practiced as a licensed behavior analyst while the ability to practice was impaired by alcohol, drugs, physical disability or mental instability;

(e) was habitually drunk or being or having been addicted to, dependent on, or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;

(f) knowingly permitted, aided or abetted an unlicensed person to perform activities requiring a license for purposes of fraud, deception or personal gain;

(g) has been convicted of a criminal offense which reasonably calls into question the ability to practice as a licensed behavior analyst;

(h) violated any rule or regulation of the board or the committee;

(i) acted in a manner which is professionally unethical according to ethical standards of the American Psychological Association or the Behavior Analyst Certification Board.

No person filing a complaint or reporting information pursuant to this section or assisting the committee or board at its request in any manner in discharging its duties and functions shall be liable in any cause of action arising out of receiving such information or assistance, providing the person making the complaint or reporting or providing such information or assistance does so in good faith and without malice.

Section 129K. Any person who practices applied behavior analysis in the commonwealth without a license shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than three months, or both. Nothing in this statute shall prevent the practice of applied behavior analysis within school, residential or day treatment settings or state-operated facilities by individuals trained to provide such services, providing (1) they do not hold themselves out as licensed behavior analysts, (2) they are licensed by the commonwealth within their respective field and are practicing within their scope of practice, training and experience, or (3) they are working under the direct clinical supervision of an individual who is licensed by the commonwealth within their respective field and are practicing within their scope of practice, training and experience.

The committee may petition in any court of competent jurisdiction for an injunction against any person practicing as a behavior specialist without a license. Such injunction may be issued without proof of damage sustained by any person. Such injunction shall not relieve such person from criminal prosecution for practicing without a license.

Section 129L. A person who does not possess a valid license and existing and current certificate of registration as a licensed behavior analyst pursuant to the provisions of this statute, shall not represent himself as a "behavior analyst," or "licensed behavior analyst", use the title "behavior analyst" or "licensed behavior analyst", or imply that he or she is a behavior analyst or licensed behavior analyst unless the person is licensed under this Chapter. Any person who violates this section shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than three months, or both.

Section 129M. A person who does not possess a valid license and existing and current certificate of registration as an assistant behavior analyst pursuant to the provisions of this statute, shall not represent himself as an "assistant behavior analyst," use the title "assistant behavior analyst" or imply that he or she is an assistant behavior analyst unless the person is licensed under this Chapter. Any person who violates this section shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment for not more than three months, or both.

222 SECTION 5. Nothing in this act shall prevent other professionals licensed by the
223 commonwealth from engaging in the practice of applied behavior analysis, if the services
224 performed are within the scope of the professional's practice under their existing license and are
225 performed commensurate with the professional's training and experience, and the professional
226 does not represent that he or she is a behavior analyst.